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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/753,473 | 01/03/2001 | Christophe Fletout | 526801-31PCON | 1823 |

7590

06/03/2003

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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89/ 753, 473

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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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EXAMINER

ART UNIT

PAPER

12

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Commissioner for Patents

Receipt is acknowledged of the Applicant's letter filed 14 May 2003.

Applicant stated that the previous Office Action mailed on 09 April 2003 designated as a Final Rejection is inappropriate for the Office Action mailed on 09 April 2003 was only the first one of the merits. The examiner respectfully disagrees. The examiner points out that the first Non-Final Office Action on the merit was made on 03 July 2002 on claims 1-5. In that first Non-Final Rejection, the examiner has

- rejected claims 1-2, 4 under 35 USC 103 as being unpatentable over Fischbach;
- rejected claim 5 under 35 USC 103 as being unpatentable over Fidalgo; and
- objected claim 3 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (see the first Office Action, paper no. 6).

In response to the first Non-Final Office action on the merit mailed on 03 July 2002, the applicant's filed an Amendment on 08 October 2002. In that Amendment, applicant canceled claims 1-4, amended claim 5, and newly added claims 6-9. (see the applicant's response, paper no. 8).

Upon receiving the Amendment filed on 08 October 2002, the examiner set forth a Requirement for Election of Species/Restriction mailed on 23 December 2002. (see the applicant's response, paper no. 9).

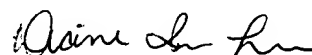
Subsequently, applicant's Response to Requirement for Election of Species/Restriction filed on 29 January 2003. In that response, applicant elected Group II, and submitted that all pending claims 5-9 are directed to the elected species. (see the applicant's response, paper no. 10).

The examiner disagreed with the applicant's submitted claims of the elected species. Upon careful consideration of the applicant's election, the Examiner made a determination that claims 6-9 are readable on the elected species, thereby, claim 5 were withdrawn from the consideration. Therefore, the subsequent Action was made Final. In that Final Office Action, the examiner has

- rejected claims 6-9 under 35 USC 103 as being unpatentable over Gloton et al., which is a new ground(s) of rejection; and
- objected claim 7-8 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form

including all of the limitations of the base claim and any intervening claims (see the Final Office Action, paper no. 11).

Accordingly, the examiner believes that the previous Office Action made Final is appropriate. Applicant's request for reconsideration of the finality of the rejection of the last Office action is not convincing, and therefore, the finality of the last Office Action mailed on 09 April 2003 is not withdrawn.



D. I. Lee
Primary Examiner
Art Unit: 2876